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Chairman: Mr. Tomka ..... (Slovakia)

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The meeting was called to order at 3.05 p.m.

Agenda item 151: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*) (A/52/33, A/52/308 and A/52/317)

1. **Mr. Syargeeu** (Belarus) supported the position of the representative of the Netherlands, speaking on behalf of the European Union, on the problems of the adverse effects of sanctions on third States, which were recognized by almost all countries as serious and urgent. However, there was no such agreement on how to find practical solutions to those problems; although the adoption of General Assembly resolutions 50/51 and 51/208 had been positive steps, they were no more than a starting point in the search for real solutions.

2. All the Articles of the Charter of the United Nations were of equal importance; therefore, the effectiveness of sanctions regimes must be maintained and at the same time the problems of third States must be solved, with neither sanctions nor the problems of third States being given preferential treatment at the expense of the other. He recalled in that connection that his country, an observer at the Twelfth Ministerial Conference of the Movement of Non-Aligned Countries, held in New Delhi in April 1997, had supported the Conference's call for Article 50 of the Charter to be made operative through the establishment of full-time machinery for assisting third States. The assistance provided to such States must be long-term, reliable and predictable, include a financial component and be applied wherever the application of sanctions entailed adverse effects.

3. He supported the proposal made by the representative of India at the 5th meeting of the Sixth Committee that a working group on the issue should be set up, on the understanding that it would focus on the core of the issue, and believed that the Special Committee should continue to give the issue priority.

4. His Government was in favour of establishing a clear-cut procedure for consultations between third States and the Security Council both before and after the application of sanctions, and strengthening the role of the General Assembly, the Economic and Social Council and the international financial institutions in developing a single method for assessing the damage caused and assisting third States. In that context, referring to the report of the Secretary-General on the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions (A/52/308), he said that his Government supported the recommendation in paragraph 12 on convening an ad hoc expert group meeting in the first half of 1998, provided that representatives of affected third States were invited. It shared Bulgaria's view that the ad hoc expert group, and others, should concentrate on issues such as increasing investment in third States, facilitating their participation in regional and subregional projects and allocating additional financial resources to them.

5. He supported the revised working paper submitted by the Russian Federation on conditions and criteria for imposing and implementing sanctions and other enforcement measures, which was reproduced in the report of the Special Committee (A/52/33, para. 29).

6. The Special Committee's capacity in respect of renewing the Charter of the United Nations was far from exhausted, and it was the most suitable body for discussing the various legal aspects of the work of the Organization, including reform. His delegation supported Cuba's proposals on the strengthening of the role of the Organization and enhancing its effectiveness, which were reproduced in the Special Committee's report (A/52/33, para. 59). He recalled in that connection that his Government's approach to reform, including democratization of the Security Council, had been set out in the address made by his country's Minister for Foreign Affairs, to the General Assembly, with particular emphasis on the need for further enhancing transparency and implementing the principle of balance in the representation of all regional groups, including Eastern Europe, in the new composition of the Council.

7. He wholeheartedly supported the working paper submitted by Portugal on amending rule 103 of the General Assembly's rules of procedure so as to increase the number of Vice-Chairmen of each Main Committee from two to three (A/52/33, para. 133). The proposal in question should be implemented by the General Assembly at its fifty-third session.

8. **Mr. Tabone** (Malta) said that his Government supported the practical measures contained in General Assembly resolutions 50/51 and 51/208 to address the problem of the effects of sanctions on third States. His delegation reaffirmed the support it had expressed during the general debate of the General Assembly for the Secretary-General's statement in his report entitled "Renewing the United Nations: a Programme for Reform" that consideration needed to be given to making sanctions more effective in achieving the goal of modifying the behaviour of those targeted, while limiting the collateral damages, and that there was also a need to address the broader humanitarian and economic effects of sanctions, as well as objective criteria

in their application and for their termination (A/51/950, para. 108).

9. Sanctions must be fair and should be imposed only where appropriate and for the shortest time needed to ensure the maintenance of international peace and security. Sanctions that would have far-reaching effects on the whole population of a country should be introduced only if to do so was justified and only as a last resort. If sanctions were imposed, humanitarian and child-focused exemptions should be made and humanitarian assistance programmes conducted by United Nations agencies and non-governmental organizations should not require approval by Security Council sanctions committees, which should closely monitor the humanitarian impact of sanctions and make immediate changes if undue suffering was being caused.

10. His delegation believed that the questions of the type of sanctions imposed, their effectiveness and their consequences for third States must remain on the agenda of the Special Committee and other United Nations forums. It supported the proposal put forward by India at the 5th meeting of the Sixth Committee for a working group to be set up during the current session to deal with the question of assistance to third States.

11. He drew attention to his country's initiative to transform the Trusteeship Council into a coordinator of the global commons, as reflected in chapter V of the report of the Special Committee (A/52/33). The proposal in the Secretary-General's report on United Nations reform (A/51/950, para. 85) was basically the same and therefore had his country's support.

12. To counter the concerns of delegations that believed Malta's initiative would lead to duplication of existing United Nations environmental bodies, he referred to Malta's explanatory memorandum (A/50/142, annex). Whereas a number of areas considered part of the common heritage or subjects of common concern were covered by various conventions and General Assembly resolutions and entrusted to the care of various international bodies, such bodies worked independently and almost completely without coordination between them. However, the issues they covered were intrinsically linked and a coordinated approach was therefore required, and institutional fragmentation could be avoided only by establishing an oversight mechanism.

13. His delegation supported the proposal by Portugal to amend rule 103 of the General Assembly's rules of procedure to expand the number of Vice-Chairmen of each Main Committee from two to three (A/52/33, para. 133).

14. **Mr. Effendi** (Indonesia) noted that Article 50 of the Charter clearly provided that third States had a right to consult with the Security Council concerning their economic problems arising out of the imposition of sanctions and that the General Assembly had been invited to consider the question of establishing a body to address the issue at the current session, as a result of deliberations in the Special Committee.

15. The past few years had witnessed a threefold increase in the number of sanctions regimes, without thorough consideration of the long- and short-term effects. Therefore, many critical issues needed to be clarified before sanctions were imposed again, including the potential impact on the target country, the time-frame, the clear definition of objectives, the humanitarian aspects and special provisions to minimize collateral damage. It was imperative that sanctions should be considered only after all avenues towards the pacific settlement of disputes under Chapter VI of the Charter had been exhausted.

16. In that connection, he supported elements in the revised working paper submitted by the Russian Federation (A/52/33, para. 29) on the humanitarian limits of sanctions, including those set out in paragraph 9 (a), (b), (d), (l) and (k) of the working paper.

17. His Government had noted with appreciation the working paper submitted by the Russian Federation on the elaboration of a draft declaration on the basic principles and criteria for the work of United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts (A/52/33, para. 58). It had been suggested that such a draft declaration should be a compendium of the relevant principles and criteria. However, Indonesia believed that peacekeeping in the post-cold-war era had moved on from traditional operations to encompass activities such as safeguarding humanitarian assistance, promoting national reconciliation, holding elections and restoring law and order, and that it would be useful to discuss a set of legal principles for those activities. In that connection, he noted that at the Eleventh Ministerial Conference of the Movement of Non-Aligned Countries, the Movement had adopted principles that could serve as a useful basis for discussion (A/49/287, para. 41). In recent years Indonesia had become increasingly concerned at the tendency to resolve conflicts by military means: the primary emphasis should be on solving them peacefully, and military means should be resorted to only in situations of extreme gravity.

18. His Government had noted with interest the revised working paper submitted by Cuba (A/52/33, para. 59), which

contained some useful elements. The issue of Security Council reform did fall within the ambit of the Special Committee, and discussing it would enhance the Special Committee's contribution to the reform process. Discussion of the matter by the Special Committee was not intended to undermine the General Assembly's Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council.

19. The role of the Special Committee, at a critical juncture in the life of the United Nations, was vital for its positive impact in generating ideas to strengthen the Organization's role. In facilitating the adoption of resolutions by consensus it continued to make a useful contribution, and the need for the Special Committee was beyond question.

20. **Mr. Mochochoko** (Lesotho) said that while there was no doubt that sanctions were a viable instrument in responding to threats to or breaches of the peace, implementing them entailed severe economic hardships for some third States. A matter of particular concern was that the unregulated use of sanctions had resulted in unnecessary suffering for innocent civilian populations; sanctions should be imposed only as a last resort, and the proposals for ameliorating the plight of third States must be carefully studied. Consultations between the Security Council and third States, and the constructive involvement of all parties in decisions on imposing sanctions, could go a long way towards alleviating the impact for third States.

21. However, the issues related to the implementation of Article 50 of the Charter were sufficiently complex to warrant careful consideration and concerted effort by the Special Committee before a practical solution could be found. Although discussions in more general terms on the operation of sanctions were proceeding in other United Nations forums, the Special Committee remained the appropriate forum for discussing them in relation to Article 50. The Special Committee must, therefore, continue to discuss the question of assistance to third States affected by the application of sanctions under Chapter VII of the Charter and consider General Assembly resolutions 50/51 and 51/208. In that connection, Lesotho was in broad agreement with the proposals in the working paper submitted by the Russian Federation (A/52/33, para. 29), and looked forward to further discussion and elaboration of a number of the issues they had raised.

22. Similarly, the Russian proposals for a draft declaration on basic principles and criteria for peacekeeping (A/52/33, para. 58) warranted further consideration. However, the objectives and scope of the declaration needed further amplification to clarify the issues and avoid possible duplication with the work of other bodies specifically mandated to deal with peacekeeping operations. Such duplication could be avoided by distinguishing between operational, political and legal principles. Also, conflicts caused by extreme poverty and underdevelopment should be covered.

23. His delegation welcomed the revised proposal by Sierra Leone on establishing a dispute prevention and early settlement service (A/52/33, para. 75), and the proposals by Costa Rica and Guatemala regarding possible amendments to the Statute of the International Court of Justice (A/52/33, paras. 101 and 115).

24. There was no urgent need to abolish the Trusteeship Council as it did not meet, had no staff and used no United Nations resources. The proposal by Malta to convert it into a coordinator of the global commons was attractive, but more time was needed for a thorough discussion of the issue.

25. On the question of new subjects for consideration by the Special Committee, he believed that the International Court of Justice should be strengthened so that it could cover the settlement of international conflicts by peaceful means, as part of the programme of reform and revitalization of the United Nations. Reform was needed also to enhance its efficiency and enable it to handle its work expeditiously, as otherwise the Court's increasing workload might adversely affect its operations. In the context of increasing workload, he recalled the Court's Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (A/51/194): the Court's emphasis on the applicability of humanitarian law to all weapons had highlighted the fact that international humanitarian law, properly applied, could be a barrier against the horrors and brutality of war.

26. The appropriate forum for discussing the legal aspects of the revitalization and reform of the United Nations and its organs remained the Special Committee, whose work should be coordinated with that of other United Nations bodies dealing with reform.

27. His delegation supported the Special Committee's recommendation to amend rule 103 of the General Assembly's rules of procedure.

28. **Mr. Chimimba** (Malawi) said that his Government's position on the implementation of Article 50 of the Charter, had not changed; it had long believed that a special mechanism such as a trust fund needed to be established to assist third States affected by sanctions under Chapter VII of the Charter. There was no doubt that Article 50 did

establish a legal obligation to provide assistance, and it would therefore be desirable for the Article to be implemented with a sufficient degree of automaticity and predictability. Malawi therefore supported the recommendation contained in the report of the Special Committee (A/52/33, para. 28).

29. A working group of the Sixth Committee or of the Special Committee could be an appropriate organizational framework for advancing the issues identified in the Secretary-General's report (A/52/308) and in General Assembly resolutions 50/51 and 51/208, and the work of an ad hoc expert group convened to develop a method for assessing the consequences actually suffered by third States would be complementary to the work already being carried out. Participation in such a group should be as broad as possible.

30. He believed that the 1997 session of the Special Committee had been encouraging, had gone some way towards clarifying the issues and had enhanced the Special Committee's role in elaborating issues relating to the maintenance of international peace and security and the peaceful settlement of disputes; that being the case, he encouraged all sponsors of proposals to revise them in the light of the debates in the Special Committee and in the Sixth Committee itself.

31. All revisions should aim to distil the relevant legal aspects. The working papers submitted by the Russian Federation, Cuba and Sierra Leone would have better chances of success if they identified the legal issues that the Special Committee should address and avoided duplicating the work of other United Nations bodies.

32. His delegation welcomed the Mexican proposals for a review of practical ways and means to strengthen the International Court of Justice and enhance its capacity to contribute to the peaceful settlement of disputes and the maintenance of international peace and security (A/52/33, para. 123). For the sake of a more comprehensive review, those proposals should be taken together with the proposals by Guatemala and Costa Rica to amend the Court's Statute (A/52/33, paras. 101 and 115).

33. His delegation wholeheartedly supported the proposal by Portugal to amend rule 103 of the General Assembly's rules of procedure. It hoped that the Assembly would adopt the relevant draft resolution (A/52/33, para. 133) at its current session.

34. Publication of supplements to the *Repertory of Practice of United Nations Organs* and the *Repertoire of Practice of the Security Council*, to which a report of the Secretary-General (A/52/317) referred, would provide the Special Committee with useful information, on Charter-related developments, that would advance its work. His delegation offered its preliminary support for the Secretary-General's suggestions in that connection (A/52/317, para. 59), and expressed the hope that any merging of the *Repertory* and the *Repertoire* would not compromise their content.

35. He hoped that the positive atmosphere that had prevailed at the most recent session of the Special Committee indicated that the Committee would continue to adapt and change so that it would continue to fulfil its mandate.

36. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that while his delegation expressed its solidarity towards third States adversely affected by the application of sanctions, it felt that the Special Committee had only scratched the surface of the issue. What the Special Committee really needed to do was to address the weaknesses in the Charter so that certain Member States could be prevented from exploiting them for their own ends, using sanctions as a weapon in hegemonic power politics to the detriment of the decision-making process and the spirit of Chapter VII of the Charter itself.

37. The example of the Libyan Arab Jamahiriya had helped fuel opposition to the very principle of imposing sanctions and calls for reform of the Charter and a return to the principles of equality, justice and mutual respect. The overwhelming majority believed that unlawful sanctions should be lifted immediately and a comprehensive review should be undertaken of the Charter's weaknesses in that regard.

38. Perhaps the Special Committee could enlighten the Libyan Arab Jamahiriya as to which Article of the Charter the Security Council referred to when it demanded that a sovereign Member State should hand over its citizens for trial, especially when that State had no extradition treaty with the other States involved. It seemed that some Security Council members could not resist abusing their powers in violation of the Charter.

39. Given the scale of organized abuse in that regard, the Libyan delegation felt that no attempt to reform the Charter could be serious or durable if it did not address the issue of the veto. The relevant working paper submitted by the Russian Federation (A/52/33, para. 29) represented a valuable attempt to address some of those issues, restricting the circumstances and time limits for the application of sanctions, and calling for an assessment of their social and humanitarian effects.

40. The humanitarian situation in the Libyan Arab Jamahiriya had deteriorated sharply after five years of sanctions, so that the very rights and principles which the United Nations sought to defend had been seriously undermined. That was the danger which the preceding Secretary-General had referred to in the "Supplement to an Agenda for Peace" (A/50/60-S/1995/1) and which the Special Committee should address in addition to examining the effects of sanctions on third States. In that regard, the proposals of the Russian Federation offered a useful point of departure.

41. Despite the best efforts of the majority of Member States to reform or abolish the veto in the Security Council, the minority had held on to their special privileges, frustrating the efforts of the Special Committee in seeking to strengthen the role of the Organization and redress the power imbalance. The Libyan Arab Jamahiriya hoped that the Special Committee would take action to reverse that trend, widening the powers of the General Assembly with regard to international security and peacekeeping, restricting the veto with a view to eventually abolishing it and enforcing the provisions of Article 31 so as to counter hegemonic decision-making and double standards. His delegation supported the proposals of the Czech Republic in regard to Article 31 and hoped that the Committee would find an equitable solution to the veto problem.

42. **Mr. Lavrov** (Russian Federation) said that his delegation took a generally positive view of the work accomplished in recent years by the Special Committee. Among the achievements attributable to the Committee were the adoption of the Declaration on the Enhancement of Cooperation Between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security, the preparation of the United Nations Model Rules for the Conciliation of Disputes Between States and the agreement reached in principle on the deletion of the "enemy State" clauses of the Charter of the United Nations.

43. It was now particularly important for the Special Committee to intensify its consideration of various aspects of sanctions regimes in the light of the experience gained by the Organization in that area.

44. The imposition of sanctions was an extreme measure that should be taken only when all other means of exerting political influence had been exhausted, and only when the Security Council had determined the existence of a threat to international peace. In formulating a sanctions regime, the Council should be guided by clear criteria, and should take due account of the effects of sanctions both on the population of the State against which the measures were imposed and on third States. It was crucially important to establish standard rules for the imposition, implementation and lifting of sanctions, to limit their effects by establishing clear time-frames, to set "humanitarian limits" to provide assistance to third States affected by the implementation of sanctions and to address the procedural issues involved.

45. He appreciated the efforts of the Special Committee and the Sixth Committee to promote the implementation of Article 50 of the Charter, particularly through the adoption of General Assembly resolutions 50/51 and 51/208. Those resolutions provided for a series of measures which, if implemented, would allow for substantial progress in solving the sanctions-related economic problems of third States. It was essential to ensure the implementation of those resolutions. Certain steps had already been taken in that direction, as outlined in the report of the Secretary-General (A/52/308). He welcomed the Secretariat's intention to introduce the mechanism provided for in paragraph 3 of General Assembly resolution 50/51. The submission of a relevant request to the Secretariat, primarily by the States most directly concerned, would promote the further development of machinery for the provision of assistance. Such steps, however, which were organizational and technical in nature, were insufficient. It was necessary to establish without delay a clear procedure for the consideration of applications under Article 50 of the Charter, to develop a universal methodology for assessing the damage incurred by third States as a result of the application of sanctions and to include in reports to the Security Council a special chapter on the potential damage which third States might incur as a result of sanctions.

46. In the context of the implementation of General Assembly resolutions 50/51 and 51/208, he supported the Secretary-General's proposal to convene an ad hoc expert group meeting in the first half of 1998 with a view to developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures. He also concurred with the idea put forward in the Secretary-General's report that the expert group should consider innovative and practical measures of assistance that could be provided by the relevant organizations to affected third States. The expert group's conclusions should be discussed by the Sixth Committee at the fifty-third session.

47. The Special Committee should continue to give attention to the question of assistance to third States affected by the implementation of sanctions on a priority basis. His delegation would continue to develop proposals for

clarifying the legal aspects of sanctions-related issues, taking into account the views of other delegations.

48. The debate generated by his delegation's proposals concerning a draft declaration on United Nations peacekeeping missions (A/52/33, paras. 39-58) showed that a number of legal aspects of peacekeeping warranted serious consideration. The practical aspects of peacekeeping should be considered in other United Nations bodies.

49. With regard to the Trusteeship Council, his delegation believed that the existing situation, in which the Council's functions were frozen while its human and financial resources were utilized by other United Nations structures and programmes, should be maintained. The proposals to entrust the Trusteeship Council with additional functions, including coordination of the "global commons", were debatable and would require substantial further study. Moreover, the abolition of one body should be separate from the establishment of another body.

50. In defining the framework for the future work of the Special Committee, account should be taken of the current reform process. The Special Committee's mandate enabled it to play a substantial role with regard to both the legal aspects of the reforms and the possibility of amendments to the Charter of the United Nations. The question of coordination between the Special Committee and other working groups dealing with the reform of the Organization also deserved more thorough consideration.

51. **Mr. Kawamura** (Japan) said that the increasingly frequent use of sanctions and a wider variety of enforcement measures in recent years necessitated a prompt and effective assessment of their effects on third States. His delegation supported the Secretary-General's proposal to convene an ad hoc expert group meeting in 1998 on that subject, but hoped that any measures taken would not hamper the effective application of the sanctions themselves.

52. Japan felt that no agreement had been reached on the need to amend the Statute of the International Court of Justice and that many issues remained to be settled.

53. Lastly, Japan supported Portugal's proposal to elect three vice-chairmen for each Main Committee.

54. **Mr. Rosenstock** (United States of America) said that his delegation shared the concerns expressed by Mexico, in the Special Committee's report, concerning the consequences of the increase in the volume of cases before the International Court of Justice for the Court's operation. The United States supported the recommendations for an efficiency review, focusing on the streamlining of procedures, without prejudice to the Statute of the Court and its authority or independence.

55. Portugal's proposal concerning the amendment of rule 103 of the General Assembly's rules of procedure was useful and his delegation supported it.

56. His delegation also joined India, the European Union and others in supporting the Secretary-General's proposal on the convening of an ad hoc expert group meeting to develop a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures (A/52/308, para. 12). That proposal had shifted the debate away from the abstract to the practical, effectively answering the question of the appropriate organizational framework for further addressing the subject. Therefore, proposals for an inter-sessional working group on the subject had been superseded. Further discussion of sanctions in the present forum was pointless, particularly in view of the "lies and fairy tales" that had already been told in that regard.

57. The Secretary-General's report was also constructive in other respects, as it shed additional light on the importance attached to the question of third-country effects of sanctions by the full breadth of international actors, and on the wide range of efforts undertaken by them to address it. It was clear that the work done in the Sixth Committee and other forums had had the effect of focusing the attention of the Organization on the matter and dealing in a realistic way with the underlying concerns. It was likewise clear that United Nations organizations, international financial institutions, Member States and others were now fully engaged on the issue.

58. The revised proposal by Sierra Leone for the establishment of a dispute prevention and early settlement service (A/52/33, para. 75) required further clarification, but contained ideas that merited further exploration by the Special Committee.

59. The Trusteeship Council should be eliminated and the Charter amended accordingly. However, his delegation was keeping an open mind on Malta's proposal for the establishment of a body with responsibility for the global commons.

60. With regard to the revised proposal put forth by Cuba (A/52/33, para. 59), his delegation remained of the view that the Special Committee should avoid duplicating efforts actively going on elsewhere.

61. As to the proposals by Guatemala and Costa Rica (A/52/33, paras. 101 and 115), his delegation had many

questions about their intent, but was prepared to consider them further if others believed the prospects so warranted.

62. His delegation shared the positive preliminary reaction of the European Union to the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of Practice of the Security Council* (A/52/317). Some of the steps taken to address the backlogs in the *Repertory* and *Repertoire* and the proposal to merge the two publications reflected the commitment and creative thinking that were necessary to solve the problem.

63. In view of the reform process and demands on inter-sessional time and resources, his delegation believed, as other delegations did, that consideration should be given to whether two weeks needed or should be allocated to the Special Committee in 1999.

64. **Mr. Han Seuk Tcheul** (Democratic People's Republic of Korea) said that since developing countries were the principal direct and indirect victims of sanctions, the international community should act urgently and appropriately to counter or attenuate their effects. Although Article 50 did not specifically provide for the right to compensation, the problem should be addressed in a concrete manner, with the Special Committee undertaking an evaluation of sanctions practice to prevent manipulation by a particular Member State or a group of Member States. Sanctions should not be seen as a panacea or a means for resolving conflict, but should be limited in terms of their objectives and duration. In terms of the relief offered to third States affected by sanctions, his country joined the non-aligned countries in calling for the establishment of an appropriate mechanism, including financial resources.

65. The balance of power between various organs of the United Nations should be addressed. While the permanent members of the Security Council enjoyed special privileges such as the veto, the Council lacked equitable geographical representation, which meant that it could deal unjustly and unfairly with matters relating to international peace and security. The competence of the General Assembly in that area should be enhanced and the Security Council should be required to submit to it for approval any decisions relating to sanctions.

66. His delegation expressed its support for Portugal's proposal concerning the amendment of rule 103 of the rules of procedure, as it would contribute to the further democratization of the Organization.

67. **Mr. Monagas-Lesseur** (Venezuela) said that there was a need to find a practical and equitable solution to the problems confronting third States as a result of the implementation of preventive or enforcement measures imposed by the Security Council, without affecting the Council's ability to take prompt action to preserve international peace and security. For that reason, a formal mechanism must be developed for providing assistance to third States which would, of necessity, involve the international financial institutions. He therefore welcomed the report of the Secretary-General (A/52/308) and supported the proposal to convene an ad hoc expert group meeting in 1998 to develop a methodology for rendering assistance to States confronted with special economic problems as a result of the implementation of sanctions.

68. His delegation supported the proposal by Portugal to amend rule 103 of the rules of procedure of the General Assembly to increase the number of Vice-Chairmen of each Main Committee from two to three (A/52/33, chap. VI). Such a proposal was fully in keeping with the spirit of the reforms currently under way within the Organization, as it would ensure that all regional groups were represented on the bureaux of the Main Committees, thus promoting greater transparency in the Committees' work.

69. In conclusion, he expressed appreciation for the report of the Secretary-General on the status of the *Repertory* and the *Repertoire* (A/52/317) and for the substantial efforts being made to update and expedite the preparation of supplements to the two publications.

70. **Mr. Šmejkal** (Czech Republic) said that, both with regard to assistance to third States affected by the application of sanctions and with regard to the status of the *Repertory* and the *Repertoire*, his delegation fully supported the European Union's position.

71. Little progress had been made on the proposal by Sierra Leone entitled "Establishment of a Dispute Prevention and Early Settlement Service". The revised proposal took the form of a general declaration of principles, which had no doubt influenced the course of the discussion. He would have preferred a text in the form of a draft legal instrument intended to serve as a basis or statute for the proposed mechanism, which would have concentrated attention on the advantages and possible weaknesses of the proposal. He continued to have reservations about financial, administrative and organizational aspects of the proposed mechanism, and about how it would fit in with other mechanisms in the same area, not all of which functioned satisfactorily, if at all. Nevertheless, the proposal did contain some interesting and innovative ideas on the avoidance of pitfalls. There was no urgent need for a decision on the future of the Trusteeship Council, because maintaining the status quo would not have any negative financial or other

consequences. However, it would be neither realistic nor appropriate to establish a new organ to protect the common heritage of mankind when existing bodies, such as the United Nations Environment Programme or the International Seabed Authority, already did that, at least in part.

72. With regard to the proposals by Guatemala and Costa Rica on extending the competence of the International Court of Justice with respect to contentious matters to disputes between States and international organizations, he was not convinced that consideration of the issue in the Special Committee necessarily required an immediate decision. Moreover, the advisory function of the Court had not been without its benefits.

73. He agreed that there was a need to seek the comments of States Members and States parties to the Statute of the International Court of Justice on its increasing workload, as proposed by Mexico, and supported the recommendations contained in paragraph 130 of the report of the Special Committee. There was no question of infringing on the independence of the Court, but the allocation of resources was a matter of concern, especially if the Court's workload continued to increase. Besides, a limited debate on the question could provide a useful perspective should new developments in, for example, the composition of the Security Council make a broader debate unavoidable.

74. He fully supported the timely proposal by Portugal to elect a third Vice-Chairman for each of the Main Committees of the General Assembly. Such a move would not only make the work of the officers of the Committees more efficient, but would also ensure fair representation and make it easier to elect the officers.

75. With regard to assistance to working groups on the revitalization of the work of the United Nations and coordination between the Special Committee and other working groups dealing with reform, he believed that discussions should continue. The political changes and reform of the past decade had created a totally new environment within which the Special Committee had to operate and to which it must adapt. Areas that should be further investigated included the identification of new subjects, possible changes in the way the Special Committee interacted with the Sixth Committee, and the practicalities of effective coordination with other bodies. It might also be useful if the Special Committee were to adopt a limited information-supplying role, rather than a coordinating role, in relation to bodies likely to benefit from its expertise.

76. **Ms. Chibanda-Munyati** (Zimbabwe) welcomed the recommendations contained in the report of the Special Committee on providing assistance to third States affected by the application of sanctions, and expressed strong support for the establishment of a mechanism mandated to fulfil the objectives of Article 50 of the Charter of the United Nations. In that connection, she reaffirmed her Government's support for the New Delhi Declaration of the Movement of Non-Aligned Countries, which called for the establishment of a trust fund for third States affected by sanctions. A working group should be established to pursue the matter further. Her delegation was encouraged by the initiative taken by the Secretary-General to devise a methodology to assess the consequences of sanctions for third States. She hoped that the newly created Department of Economic and Social Affairs would be effective in mobilizing economic assistance to States with problems arising from measures imposed by the Security Council. The decision to convene an ad hoc expert group, including experts from developing countries affected by sanctions, was particularly welcome.

77. The question of criteria for the imposition of sanctions and other enforcement measures, raised by the Russian Federation, merited further consideration, as sanctions regimes were not functioning properly. Sanctions should be a remedial measure, to be used as a last resort, and should be applied within a specific time-frame.

78. Her delegation supported the Cuban proposal on strengthening the role of the Organization and enhancing its effectiveness. The legal aspects of reform presented the biggest obstacle, as they involved amending the Charter. The Special Committee had been mandated to carry out an exercise such as the one proposed by the Cuban delegation, and should make its work more relevant and useful, to complement discussions in other working groups on reform.

79. Her delegation believed that the Trusteeship Council had fulfilled its mandate and should not duplicate work carried out in other forums; it should therefore be abolished. With regard to the proposal by Mexico to revitalize the International Court of Justice, her delegation fully subscribed to the recommendations contained in paragraph 130 of the Special Committee's report. The Court should participate in the current wave of reform in the United Nations system, with a view to enhancing its effectiveness and efficiency. Her delegation also fully supported the proposal by Portugal, and the reasoning behind it, to expand the number of officers on the Main Committees of the General Assembly, as part of efforts to make the United Nations system more representative of the general membership of the Organization.

80. **Mr. Dlamini** (Swaziland) said that opening the proceedings of the Special Committee to all members of the Organization had helped to ensure that the Committee's

report covered a wide range of issues. On the question of assistance to third States affected by the application of sanctions, he said that the implementation of sanctions should be a last resort and should not be an end in itself, but rather a means to an end. He was pleased to note that the Secretary-General's report contained in document A/52/308 attested to the need for constructive dialogue between third States and international organizations, and to the commitment of international organizations to work together with such States in an effort to resolve problems arising from the pursuit of Charter obligations by the Security Council. He also welcomed the proposal by the Russian Federation on the need to review the impact of sanctions, which should not result in untold suffering for innocent people.

81. With regard to the future of the Trusteeship Council, he had taken note of the arguments on both sides. Ways of revitalizing the Trusteeship Council as a useful organ of the United Nations needed to be found.

82. He fully supported the proposal by Portugal, which he believed would go a long way towards alleviating the problems caused by the increased workload of the Main Committees. Lastly, he had some doubts about the Mexican proposal that the Special Committee should review practical ways to strengthen the International Court of Justice and enhance its capacity to contribute to the peaceful settlement of disputes and the maintenance of international peace. To consider that item within the framework of the Special Committee could be seen as interfering in the internal procedures of the Court.

83. **Mr. Legal** (France) said that his delegation's position had been perfectly expressed by the representative of the Netherlands, speaking on behalf of the European Union, but he wished to concentrate on the issue of sanctions as provided for in Article 41 of the Charter of the United Nations. After acknowledging the important contribution of the Russian Federation to the debate, he said that sanctions should always be imposed for a fixed, renewable period of time. Without such a restriction, the lifting of sanctions could be blocked in the Security Council by a single State, whose action could be arbitrary or part of a hidden agenda. One delegation was thus able to keep under a restrictive regime a State that might have fulfilled its obligations as required by the Security Council. According to the counter-argument, if a date was set in advance for the lifting of sanctions, the State or party concerned would simply bide its time and take no specific action. His delegation could accept that argument but for the fact that some States considered the imposition of sanctions by the Security Council as simply a tool for conducting international relations. Such an approach was unhealthy and contrary to the principle of the sovereign equality of States. Ostracizing a large proportion of humankind was no basis for building harmonious and mutually enriching international relations.

84. He was not questioning the value of sanctions under Chapter VII of the Charter as such; it was their potential proliferation that gave cause for concern. They should be reserved for exceptional cases and needed to be carefully targeted so as to avoid causing unnecessary harm, particularly to the general population. As the Russian Federation had pointed out, such questions needed to be addressed as a matter of urgency.

85. A more precise time-scale would avoid arbitrariness in the imposition of sanctions and make it impossible for the objectives set for them by the relevant international body to be manipulated for other purposes. Sanctions imposed with no time limits could be extended indefinitely for obscure reasons, unrelated to the wishes of the States Members of the United Nations or the members of the Security Council as a whole. Thus, the State or party concerned was isolated, without really being encouraged to act in the desired manner. The mechanism would be more effective if it was applied for a limited, renewable period, as the authorities concerned would then know in advance the date on which the question would be reviewed by the Security Council. On that date, if 9 of the 15 members of the Security Council agreed that the conditions set had not been met, the sanctions would be maintained. Such a system would clearly enhance transparency. The Security Council would be quite capable of reviewing the situation at the end of the initial period on the basis of the criteria it had used when deciding to impose sanctions in the first place. A sanctions regime of unlimited duration created suspicion and encouraged States to court favour with the most powerful States, rather than fulfil their international obligations.

86. The General Assembly, in adopting the report of the Subgroup of the Informal Open-ended Working Group of the General Assembly on an Agenda for Peace, had set the course to be followed, though it was not always easy to do so. Two recent examples in Africa, in which his Government had gone along with targeted sanctions without time limits, showed that his Government was not being inflexible in its defence of principles. However, the United Nations faced a choice between the widespread use of economic, diplomatic and other sanctions as a standard approach to the conduct of international relations, and their more considered use in exceptionally serious circumstances, when they would be applied in a spirit of openness for a fixed, renewable period to achieve results clearly identified in advance.

87. **Mr. Correa** (Chile) said that the Special Committee had an important role to play in considering and proposing ways to improve the functioning of the Organization, especially in the areas of international peace and security. The end of the historical period characterized by bitter confrontation would no doubt have an impact on its work, opening the way for cooperation between States and posing new challenges. One of the most important subjects dealt with by the Committee at its latest session had been the question of assistance to third States affected by the application of sanctions under Chapter VII of the Charter of the United Nations. General Assembly resolutions 50/51 and 51/208 represented a real step forward in the attempt to balance the effectiveness of sanctions and the need to find solutions to the problems affecting third States. Subsequent measures taken by the Security Council to enhance the efficiency and transparency of the sanctions committees were also positive steps. Also worthy of consideration were the proposals by the Secretary-General, contained in document A/52/308, to convene a meeting of experts from within and outside the United Nations system to assess the actual economic losses incurred by third States as a result of the application of sanctions. The proposed methodology, once adopted, should be made widely available to States seeking assistance under Article 50 of the Charter as well as to the international financial institutions considering their requests for assistance.

88. He welcomed the proposal by Portugal to increase the number of Vice-Chairmen on the Main Committees of the General Assembly. The proposal took into account the increasing workload of the committees and allowed a more equitable representation among the officers of the committees.

89. **Mr. Manongi** (United Republic of Tanzania) welcomed the report of the Secretary-General on the implementation of Charter provisions related to assistance to third States affected by sanctions (A/52/308) and expressed support for the proposal that the Department of Economic and Social Affairs, in consultation with the Department of Political Affairs, should continue its efforts with a view to developing a possible methodology for assessing the economic consequences of the implementation of sanctions for third States. He was concerned, however, that the Secretary-General's proposals seemed to be regarded by some as an end in themselves, which was not how they were envisaged by the Secretary-General. The ad hoc expert group which the Secretary-General proposed to convene to assist the Secretariat in developing such a methodology would benefit greatly from the inclusion of governmental experts from States with broad experience in coping with the negative effects of sanctions imposed on other States.

90. Sanctions had far-reaching consequences which most States could not address on their own. The rationale behind Article 50 of the Charter was that any special economic difficulties confronting third States must be approached in a spirit of shared responsibility. It was thus of the utmost importance to establish appropriate support structures if the credibility of the sanctions regime under the Charter was to be preserved.

91. **Mr. Al-Adhami** (Iraq) said that his delegation attached utmost importance to the courageous views and proposals contained in the working paper submitted by the Russian Federation. The issue of sanctions was a sensitive one, particularly when the underlying purpose of some States was to use those measures to destroy the political, economic and social infrastructure of another State.

92. The Russian paper, coupled with the recommendations of the Informal Open-ended Working Group on an Agenda for Peace (A/51/L.78), made it clear that sanctions should only be used in exceptional circumstances and in accordance with the principles of international law, rather than the desires of a particular State or clique. The Russian paper highlighted the need to review the legal aspects of sanctions in the framework of the overall reform process. Article 41 of the Charter, for example, gave too much leeway to unscrupulous States and should be re-examined along the lines suggested by the Working Group and the Russian Federation. There was no doubt that the suffering caused by the sanctions in Iraq had helped focus attention on the need to address those issues.

93. Cuba's proposal on strengthening the role of the Organization (A/52/33, para. 59) made some important points about reform, particularly with regard to the respective powers of the Security Council and General Assembly. A review of Security Council practice should be undertaken, in order to ensure its democratization, in accordance with the principles of the Charter. That proposal in no way interfered with the work of reform bodies elsewhere, but sought to contribute to it.

94. **Mr. Márs**ico (Argentina) said that his delegation attached particular importance to the question of the implementation of Charter provisions related to assistance to third States affected by sanctions. The relevant resolutions on the matter that had been adopted so far were steps in the right direction. He welcomed the comprehensive report of the Secretary-General contained in document A/52/308, particularly with regard to the convening of an expert group meeting to develop a methodology to assess the

consequences actually incurred by third States as a result of preventive or enforcement measures. He agreed that it was necessary to include internationally renowned experts and representatives of the relevant organizations, particularly the international financial and trade institutions, and that the outcome should be submitted for the consideration of Member States.

95. Turning to the report of the Special Committee, he said that his delegation strongly supported the proposal made by Portugal, which would reduce the workload of the officers of the Main Committees while ensuring that all regional groups were represented among the officers. He also supported the Mexican proposal that the Special Committee should review practical ways and means to strengthen the role of the International Court of Justice. His delegation agreed that it would be timely, after the Court's 50 years of existence, for Member States to consider increasing its capacity to contribute to the peaceful settlement of disputes and the maintenance of international peace. Such consideration should focus on the practical aspects of the Court's functioning which would require no amendments to the Charter or the Statute of the Court.

96. Lastly, his delegation welcomed all efforts by the Secretary-General to gradually eliminate the backlog in publishing the *Repertory of Practice of United Nations Organs* and the *Repertoire of Practice of the Security Council*.

97. **Mr. Odoi-Anim** (Ghana) said that the question of the implementation of Charter provisions concerning assistance to third States affected by the application of sanctions had been debated in a number of United Nations forums and a number of ideas and proposals had been introduced with a view to the implementation of Articles 40 to 42 and Article 50 of the Charter. He therefore welcomed the report of the Secretary-General on the subject (A/52/308) and supported the arrangements introduced by the Secretary-General, particularly those relating to the collation, analysis and assessment of information on the damage actually incurred by third States as a result of the imposition of sanctions. The logical next step must be the creation of machinery and the provision of adequate resources to address the problems faced by affected States. He noted with satisfaction that the need to preserve the effectiveness of sanctions regimes had also received attention in the report.

98. His Government was particularly interested in issues relating to the implementation of sanctions in situations involving ethnic conflicts as well as threats to the emerging democratic order, especially in Africa. It was to be hoped that special efforts would be made to study and recommend workable solutions to sanctions-related problems in such situations that would focus on the avoidance of unnecessary suffering by the civilian population.

99. His Government believed that before sanctions were resorted to, other means of pressure, such as those envisaged in Article 40 of the Charter, must be applied to the fullest extent.

100. The working paper submitted by Cuba entitled "Strengthening the role of the Organization and enhancing its effectiveness" (A/52/33, chap. III), was worthy of attention, as it addressed issues that were central to the efforts to make the United Nations more efficient, transparent and democratic. His Government would express its views on the proposal in due course.

101. With regard to the proposal submitted by Guatemala concerning possible amendments to the Statute of the International Court of Justice to extend its competence with respect to contentious matters to disputes between States and international organizations (A/52/33, chap. IV), he believed that, as the Court's Statute was an integral part of the Charter, any amendments to the Statute must be undertaken in accordance with the procedures required for amending the text of the Charter. It might not be easy to achieve the political consensus needed for the commencement of such a process.

102. Moreover, in view of the new democratic order and the need to move away from the politics of might to the rule of law, it was imperative to devote greater attention to increasing the acceptance by Member States of the Court's jurisdiction; that issue, unfortunately, was not reflected in the proposals discussed by the Special Committee.

103. With regard to the future role of the Trusteeship Council (A/52/33, chap. V), while the spirit underlying the proposals to convert the Trusteeship Council into a coordinator of the global commons was commendable, care should be taken to avoid a duplication of effort between the "new" Trusteeship Council and other institutions and agencies dealing with the same subject matter.

104. With regard to the identification of new subjects for future consideration by the Special Committee and coordination between it and other working groups dealing with the reform of the United Nations, he welcomed the proposal to involve the Court in the process of reform and revitalization. That process, however, should be undertaken by the Court itself in accordance with its Statute and the spirit of the Charter, so as not to compromise its independence. Member States should address the issue of

providing the Court with additional resources to enable it to discharge its duties without undue constraints.

105. **Mr. Benítez Saénz** (Uruguay) said that the regime of preventive or enforcement measures applied by the Security Council had not proved to be totally effective. According to information which he had received, sanctions had achieved their objectives in only 41 of 116 cases in which they had been imposed, and were becoming less and less effective. Nevertheless, he did not wish to condemn a legitimate means provided by the Charter for influencing the behaviour of a State when the Security Council had determined the existence of a threat to peace and security. It was essential, however, that when sanctions were adopted, automatic measures should be decided on to generate the financial resources needed to put a stop to the economic losses suffered by third States.

106. In that connection, he supported the revised working paper on the subject submitted by the Russian Federation (A/52/33, paras. 29-38), especially the notion that socio-economic and humanitarian consequences should be taken into account in the adoption and implementation of sanctions, which should be subject to a time limit. The Sixth Committee was the appropriate forum for addressing such questions, as they were mainly of a legal nature.

107. As to the other working papers submitted by the Russian Federation on the question of a draft declaration on peacekeeping missions and mechanisms (A/52/33, paras. 39-58), his delegation, while supporting many of the principles on which they were based, believed that peacekeeping issues more properly fell within the competence of the Special Committee on Peacekeeping Operations.

108. The revised working paper submitted by Cuba (A/52/33, chap. III) deserved further consideration, particularly as it reflected the concern of many delegations with strengthening the General Assembly. He shared the view expressed in the document that the Organization's current structure did not reflect contemporary political reality.

109. The notion of a preventive mechanism for dealing with incipient crises without generating additional costs to the Organization, as reflected in the proposal submitted by Sierra Leone (A/52/33, chap. IV), was commendable. He also supported the proposals submitted by Guatemala and Costa Rica to amend the Statute of the International Court of Justice to extend its competence with respect to contentious matters to disputes between States and international organizations (A/52/33, paras. 101-114 and 115-116).

110. As the proposal to abolish the Trusteeship Council (A/52/33, chap. V) would require an amendment to the Charter, he suggested that it should be deferred until other reforms which might also require Charter amendments had been adopted.

111. The Mexican proposal to seek practical ways and means to strengthen the International Court of Justice (A/52/33, chap. VI) could be one of the new subjects for future consideration by the Special Committee; the Court itself should be requested to express an opinion on the matter.

112. Lastly, he supported the proposal by Portugal to amend rule 103 of the rules of procedure of the General Assembly to increase the number of Vice-Chairmen of each Main Committee from two to three (A/52/33, chap. VI).

113. **Mr. Patriota** (Brazil) said that, in the light of the report of the Special Committee, it appeared that the Committee's work could benefit from a more focused approach to the items on its agenda, or even a more challenging agenda. The efforts to identify new subjects for future consideration should be pursued at the next session of the Special Committee.

114. The proposal by Mexico to initiate a review of practical ways and means to strengthen the International Court of Justice (A/52/33, paras. 123-130) deserved more detailed consideration in the light of the Court's growing workload and the emerging interest in its potential for preventive diplomacy.

115. Another proposal which merited further study was the suggestion by Cuba in its working paper (A/52/33, chap. III) that the general exception contained in Article 12 of the Charter should be appraised in the light of current circumstances; he suggested that the Secretariat should organize a debate on that question.

116. The proposals submitted by the Russian Federation concerning basic principles and criteria for the work of United Nations peacekeeping missions (A/52/33, paras. 39-58) dealt with issues that could be examined more closely without requiring a draft declaration, such as the question of peacekeeping activities undertaken through regional arrangements which did not fall under Chapter VIII of the Charter. The Special Committee could play a useful role in addressing those and other issues posed by the post-cold-war transition phase, which would soon enter its second decade.

117. The question of the implementation of Charter provisions related to assistance to third States affected by sanctions continued to attract attention, although sizeable differences remained over how to render Article 50 of the

Charter more fully operational. General Assembly resolution 51/242 constituted a relevant contribution to the discussions on that subject in the Special Committee and the Sixth Committee. Sanctions were collective measures, and the costs involved in their application should be borne equitably by all Member States. Measures under Article 41 of the Charter should be resorted to only when other peaceful efforts had failed. At the same time, multilateral sanctions should ideally be targeted towards specific agreed political objectives, thus precluding the use of military force. Moreover, as a legitimate multilateral tool, United Nations sanctions should obviate recourse to unilateral measures.

118. He welcomed the proposals contained in paragraphs 12 and 33 of document A/52/308 for the convening of an ad hoc expert group meeting in 1998 to develop a uniform and internationally recognized methodology for assessing the consequences actually or potentially incurred by third States as a result of preventive or enforcement measures. In emphasizing the need for action, the report offered a way to transform the experience of recent years into practical and innovative ways of minimizing the negative consequences of sanctions for third States. The composition of the expert group should be geographically balanced, and it should include those countries particularly affected by the imposition of sanctions on neighbouring States. There must also be a clear understanding of how the group's findings would be reported to the General Assembly and the Security Council, and a time-frame for completion of the process. He believed, moreover, that consultations with third States should be held on a regular basis before sanctions were imposed, and that there should be ongoing contacts between the Security Council and Member States to promote constant monitoring of the effects of sanctions on third States, with priority being given to addressing the situation of countries most severely affected by specific regimes. Lastly, efforts should be made to ensure that sanctions committees did not widen the scope of sanctions in establishing guidelines for their implementation.

119. Turning to the proposal to abolish the Trusteeship Council, which a majority of countries appeared to support, as reflected in paragraph 118 of the Special Committee's report, he agreed that the Trusteeship Council, having discharged its responsibilities, should be terminated through a simple Charter amendment, possibly in connection with a package of amendments relating to the "enemy-State" clauses and other provisions.

120. He supported the initiative by Portugal to amend rule 103 of the rules of procedure of the General Assembly so that each Main Committee would elect three Vice-Chairmen instead of two (A/52/33, chap. VI), thus promoting equitable geographical distribution.

121. Lastly, he expressed appreciation for the report of the Secretary-General on the steps being taken to expedite the preparation of supplements to the *Repertory* and the *Repertoire* (A/52/317) and endorsed the suggestions contained in paragraph 59 of that report.

The meeting rose at 6 p.m.